

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

SHAUN P. AUSTIN,

No. 4:24-CV-00886

Plaintiff,

(Chief Judge Brann)

v.

SCI-DALLAS MAILROOM STAFF,
et al.,

Defendants.

ORDER

AND NOW, this 14th day of November 2024, in accordance with the accompanying Memorandum, IT IS HEREBY ORDERED that:

1. Defendants' motion (Doc. 3) to dismiss under Federal Rule of Civil Procedure 12(b)(6) is **GRANTED** in part and **DENIED** in part, as follows:
 - a. Plaintiff's Section 1983 First and Fourteenth Amendment access-to-courts claims are **DISMISSED** with prejudice as to all Defendants pursuant to Rule 12(b)(6) for failure to state a claim upon which relief may be granted.
 - b. Plaintiff's Section 1983 First Amendment free speech claim against defendants "SCI-Dallas Mailroom Staff" is **DISMISSED** without prejudice pursuant to Rule 12(b)(6). Leave to amend herein is **DENIED**.
 - c. Plaintiff's Section 1983 First Amendment retaliation claims against all Defendants are **DISMISSED** with prejudice pursuant to Rule 12(b)(6).
 - d. Defendants' motion to dismiss is **DENIED** in all other respects.

2. The Clerk of Court is directed to terminate defendants “SCI-Dallas Mailroom Staff.”
3. Defendants’ motion to strike (Doc. 3) pursuant to Federal Rule of Civil Procedure 12(f) is **GRANTED**. The impertinent allegations regarding defendant Ransom appearing on pages 7 and 8 of Plaintiff’s complaint (Doc. 1-1 at 7-8 ¶¶ 9-10) are **STRICKEN** from the record.
4. This case shall proceed on Plaintiff’s Section 1983 First Amendment free speech claim regarding incoming nonlegal mail as to defendant Ransom only.
5. Defendant Ransom shall respond to the single remaining Section 1983 claim listed in paragraph 4 above as required by Federal Rule of Civil Procedure 12(a)(4).

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann
Chief United States District Judge